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UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS

Alliance Companies LLC, Alliance Partnership
 Services LLC, Alliance Credit Services LLC,
 Alliance Financial Services LLC, Alliance
 Affinity Services LLC, and Alliance Marketing
 Services LLC,

Plaintiff,

Civil Action No.

v.

Alliance Data Systems Corporation

Defendant.

05 CV 10781 NMG

MAGISTRATE JUDGE Sarkis

COMPLAINT

1. Plaintiffs Alliance Companies LLC, Alliance Partnership Services LLC, Alliance Credit Services LLC, Alliance Financial Services LLC, Alliance Affinity Services LLC, and Alliance Marketing Services LLC (collectively "The Alliance Companies" or "Plaintiff"), by their attorneys, bring this action for declaratory and other relief against Alliance Data Systems Corporation ("ADS" or "Defendant") pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57.

2. The Alliance Companies seek a judgment declaring that ADS cannot prevent the Alliance Companies from using their family of ALLIANCE marks to promote their goods and services in the Commonwealth of Massachusetts. The Alliance Companies further seek a judgment declaring that their use of their trademarks and associated trade dress, in connection with their offering of financial services is not likely to cause confusion, or to cause mistake, or to deceive as to: (1) the presence or absence of affiliation, connection or association of The Alliance Companies with ADS; or (2) the perceived origin, sponsorship, or approval of The Alliance Companies' goods, services, or commercial activities by ADS.

THE PARTIES

3. Alliance Companies LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

4. Alliance Partnership Services LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

5. Alliance Credit Services LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

6. Alliance Financial Services LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

7. Alliance Affinity Services LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

8. Alliance Marketing Services LLC is a Delaware corporation with places of business at One Gateway Center, Newton, Massachusetts 02458 and 117 Bow Street, Portsmouth, New Hampshire 03801.

9. Upon information and belief, Defendant is a Delaware corporation with its principal place of business at 17655 Waterview Parkway, Dallas, Texas 75252.

JURISDICTION AND VENUE

10. This is a civil action for declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57 for a declaration of rights and/or other legal relations of the parties to this litigation with respect to an actual controversy arising under trademark laws of the United States, 15 U.S.C. § 1501 et seq.

11. This Court has subject matter jurisdiction over the claims stated herein pursuant to 28 U.S.C. §§ 1331, 1338, and this Court's supplemental jurisdiction under 28 U.S.C. § 1367.

12. Upon information and belief, venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because this is the judicial district where a substantial part of the events or omissions giving rise to the claim occurred.

FACTS

13. Alliance Companies LLC is the umbrella name which refers collectively to the operating companies Alliance Companies LLC, Alliance Partnership Services LLC, Alliance Credit Services LLC, Alliance Financial Services LLC, Alliance Affinity Services LLC, and Alliance Marketing Services LLC.

14. The Alliance Companies have been continuously using the name ALLIANCE in commerce in connection with financial services, particularly consulting services provided to banks and other financial companies, since January 2001.

15. The Alliance Companies have used their family of ALLIANCE marks in connection with their financial services throughout their nationwide operations. The Alliance Companies also created a website, *www.thealliancecompany.com*, in September 2002.

16. On information and belief, ADS's business offers and manages credit, debit and stored value cards for its clients, processes credit and debit card transactions and provides other services related to consumer information and customer loyalty.

17. On information or belief, ADS has registered the mark ALLIANCE DATA SYSTEMS and claimed use in that registration in connection with its business. The mark is accompanied by a red circle containing white cross-hatched lines creating an "A"-like shape.

18. On information and belief, Alliance Data Systems is most commonly known by its initials "ADS."

19. Upon information and belief, the word ALLIANCE, solely or in combination with other words, is used extensively nationwide as a business name. More than 6,000 companies nationwide have names that begin with the word "Alliance" – including dozens of companies that begin with the two words "Alliance Data." The American Business Directory alone lists more than 4,000 companies beginning with the word "Alliance." A search of the Patent and Trademark Office's database reveals nearly 300 pending and registered trademarks that begin with the word "Alliance."

20. Many of these businesses operate credit card, credit, or other financial related businesses.

21. By letter to The Alliance companies dated March 29, 2005, counsel for ADS alleged that The Alliance Companies' "use of the ALLIANCE name and mark in connection with the marketing and sale of its financial services, is likely to cause confusion, mistake, or deception of the public and those of ADS, and/or confusion or deception as to the sponsorship of approval of your company's services by ADS."

22. Furthermore, the letter threatened that “ADS will be forced to pursue its legal remedies if it does not receive satisfactory assurances that your company’s use of the ALLIANCE name and mark...will be terminated immediately.”

23. The Alliance Companies’ and ADS’s marks, alone or in context accompanied by their respective trade dress, are not substantially similar to one another, nor are the operations of Alliance Companies’ and ADS substantially similar, so as to present a reasonable confusion, mistake, or deception as to: (1) the presence or absence of affiliation, connection or association of The Alliance Companies with ADS; or (2) the perceived origin, sponsorship, or approval of The Alliance Companies’ goods, services or commercial activities by ADS.

24. The Alliance Companies are aware of no instances of confusion that have resulted from the establishment and operation of The Alliance Companies over the past four years.

25. Because of ADS’s threats, The Alliance Companies face significant harm to their business. The Alliance Companies are operating under the mark ALLIANCE, promoting their business and garnering good will thereunder, the value of which is threatened by ADS’s baseless allegations.

COUNT I
(Declaratory Judgment—28 U.S.C. § 2201)

26. The Alliance Companies hereby repeat and reallege the allegations contained in paragraphs 1-24.

27. As described above, there exists an actual and justiciable controversy between The Alliance Companies and ADS as to the scope and extent of the parties’ rights in their respective marks and specifically whether The Alliance Companies’ use of their mark infringes ADS’s alleged rights.

28. Pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, The Alliance Companies are entitled to judgment declaring that ADS cannot prevent The Alliance Companies from using their family of marks, including the ALLIANCE mark, in their nationwide business. The Alliance Companies are further entitled to a judgment declaring that their use of their family of marks, including the ALLIANCE mark (and design), is not likely cause confusion with ALLIANCE DATA SYSTEMS; that their use of the ALLIANCE family of marks has not, does not, and will not infringe upon ADS's alleged statutory and/or common law rights in and to the mark ALLIANCE DATA SYSTEMS (and design); and that ADS will not be harmed or damaged by The Alliance Companies' use of their trademarks.

CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this court to enter judgment in its favor against ADS,

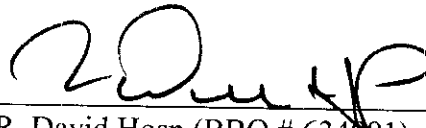
- (a) adjudging and declaring that ADS cannot prevent The Alliance Companies from using their family of marks, including the ALLIANCE mark, in nationwide business practice; that The Alliance Companies' use of their family of marks, including the ALLIANCE mark, is not confusingly similar to the mark ALLIANCE DATA SYSTEMS; that The Alliance Companies' use of their family of marks, including the ALLIANCE mark, have not, do not, and will not infringe upon ADS's statutory and/or common law rights in and to the mark ALLIANCE DATA SYSTEMS; and that ADS has not been and will not be harmed or damaged by The Alliance Companies' use of their marks.
- (b) awarding The Alliance Companies their costs of suit and reasonable attorneys' fees; and,

- (c) granting The Alliance Companies such other and further relief as the court deems just and proper.

Respectfully submitted,

ALLIANCE COMPANIES LLC, ALLIANCE
PARTNERSHIP SERVICES LLC, ALLIANCE
CREDIT SERVICES LLC, ALLIANCE
FINANCIAL SERVICES LLC, ALLIANCE
AFFINITY SERVICES LLC, AND ALLIANCE
MARKETING SERVICES LLC,

By their attorneys,

A handwritten signature in black ink, appearing to read "R. David Hosp", is written over a horizontal line.

R. David Hosp (BBO # 634691)

Sheryl A. Koval (BBO # 657795)

GOODWIN PROCTER LLP

Exchange Place

Boston, Massachusetts 02109-2881

Phone (617) 570-1000

Facsimile (617) 523-1231

Dated: April 19, 2005

1:IBA/1528212.1

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CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Alliance Companies LLC, et al

(b) County of Residence of First Listed Plaintiff Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

R. David Hosp Tel.: 617-570-1000
Goodwin Procter LLP, Exchange Place, Boston, MA 02109

DEFENDANTS

Alliance Data Systems Corporation

County of Residence of First Listed Defendant MA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 | Foreign Nation | PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Enpl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sec. 2201

Brief description of cause:

See attached

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

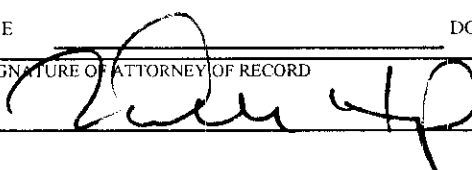
JUDGE

DOCKET NUMBER

DATE

04/19/2005

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment

Plaintiffs Alliance Companies LLC, Alliance Partnership Services LLC, Alliance Credit Services LLC, Alliance Financial Services LLC, Alliance Affinity Services LLC, and Alliance Marketing Services LLC (collectively "The Alliance Companies" or "Plaintiff"), by their attorneys, bring this action for declaratory and other relief against Alliance Data Systems Corporation ("ADS" or "Defendant") pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57.

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05 cv 10781 NMG

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Alliance Companies LLC v. Alliance Data Systems Corporation
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
None
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES ☐ NO ☒
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES ☐ NO ☒
A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division ☒ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME R. David Hosp, Esq.ADDRESS Goodwin Procter LLP, Exchange Place, Boston, MA 02109TELEPHONE NO. 617-570-1000